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**Bill to be introduced into the Council of the Governor of Fort St. George for the purpose of making Laws and Regulations.**

Under rule 33 of the rules for the conduct of business at meetings of the Council the following Bill, together with the Statement of Objects and Reasons, is published for general information :—

No. 2. OF 1920.

*A Bill to amend the Madras Court of Wards Act, 1902, and the Madras Impartible Estates Act, 1904.*

WHEREAS it is expedient to amend the Madras Court of Wards Act, 1902, and the Madras Impartible Estates Act, 1904; It is hereby enacted as follows :—

**1.** This Act may be called the Madras Court of Wards and the Madras Impartible Estates (Amendment) Act, 19 .

**2.** For section 9 (*d*) of the Madras Court of Wards Act, 1902, the following shall be substituted, namely : —

" Proprietors declared by the Local Government to be incapable of managing their property—

(1) owing to any physical or mental defect or infirmity rendering them unfit to manage their property, or

(2) owing to their having entered upon a course of such wasteful extravagance as is likely to dissipate their property."

**3.** To section 19 of the said Act, the following shall be added as sub-section (3), namely :—

"Notwithstanding anything contained in this Act, the Court may, with the sanction of Government, take charge of the person or property, or both, of any minor or disqualified member of the family of such proprietor, who has a vested or contingent interest in, or a chance of succeeding to, the property of such proprietor."

**4.** To section 24 of the said Act, the following shall be added as sub-section (3), namely :—

Section 35 (2) of the Punjab Court of Wards Act, 1903.

"(3) In appointing a guardian under this section, the Court shall be guided, as far as may be, by the provisions of section 17 of the Guardians and Wards Act, 1890."

**5.** After section 27 of the said Act, the following shall be inserted as section 27-A :—

Section 35 (2) of the Punjab Court of Wards Act, 1903.

"If a ward leaves or is removed from the custody of a guardian appointed under section 24, the Collector of the district specified in the notification issued under section 19 may exercise the powers conferred by section 25 of the Guardians and Wards Act, 1890, on a Court as defined in that Act."

**6.** For section 30 of the said Act, the following shall be substituted :—

Section 42 (1) and (3) of the Punjab Court of Wards Act, 1903, and section 59-A of the Bengal Court of Wards Act, 1879.

"30. (1) Every guardian, manager or other servant of the Court shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of that Code.

(2) In the definition of 'legal remuneration' contained in section 161 of the Indian Penal Code the word 'Government' shall, for the purposes of this section, be deemed to include the Court of Wards."

**7.** In section 32 of the said Act, class III, for the words "The prevention and relief of distress among the ward's tenantry", the following shall be substituted :—

"The betterment of the social and economic conditions of the wards' tenantry, including relief of distress, grant or acquisition of house-sites, erection of dwellings, water-supply, medical relief, sanitary improvement, education and the making of advances to co-operative societies formed for all or any of such purposes as aforesaid."

**8.** For the first sentence of section 40 of the said Act, the following shall be substituted :—

"The Collector shall, after making such inquiry as he may deem fit, decide which claims notified or admitted under section 38 are to be allowed in whole or in part, and which are to be disallowed, and shall give written notice of the same to the claimants. The Collector's decision shall be subject to confirmation by the Court except where the amount involved does not exceed the limits which the Court may prescribe with the previous sanction of the Local Government."

**9.** In section 45, sub-section (1), of the said Act, the words "with the previous sanction of the Governor-General in Council" shall be deleted.

**10.** After section 50 of the said Act, the following shall be inserted as section 50-A :—

"50-A. Notwithstanding anything in section 50, the Court may by an order nominate any person, other than the manager or the officer competent to act as manager under section 25, as next friend or guardian *ad litem* as the case may be, and, upon receiving a copy of such order, the Civil or Revenue Court in which such suit or proceedings is pending shall substitute the name of the person so appointed for the name of the manager or of the officer competent to act as manager under section 25."

**11.** In section 51 of the said Act, after the words "section 25" the words "or any person appointed as next friend or guardian *ad litem* as the case may be under section 50-A" shall be inserted; and after the words "any property of the ward" the words "or, if the suit or proceedings relates to a religious or charitable endowment, of which the ward is the trustee, out of the funds belonging to such endowment" shall be inserted.

**12.** In section 52 of the said Act, after the words "section 25" the words "or other person appointed by the Court under section 50-A" shall be inserted; and after the words "officer" in the proviso to the section the words "or person" shall be inserted.

Section 41 of the United Provinces Court of Wards Act, 1899.

**13.** In sub-section (1) of section 55 of the said Act, the words "within two years from the date of the notification published under section 19" shall be deleted and after the words "or such of them as have not been liquidated" the words "or for any other sufficient reason" shall be inserted.

**14**. After section 58 of the said Act, the following shall be inserted as section 58-A, namely :—

"58-A. When a ward dies and the next heir is a minor or the Court proposes under section 57 to retain the property under its superintendence, the Court may do so pending the decision of the Local Government as to whether the Court shall continue its superintendence and during such period such minor or person who has succeeded to the property or the person who has ceased to be disqualified shall be deemed a ward of the Court."

**15**. For section 60 of the said Act the following shall be substituted, namely :—

" Any expense incurred by the Court on account of any ward or of any property under its charge, and not defrayed during the Court's superintendence and any expense incurred by the Court on account of such ward or property after the release of the person of the ward or the property from the Court's superintendence may, after such release, be recovered, as if it were an arrear of land revenue from the ward or from any person into whose possession such property or any part thereof may have passed.

Provided that in the latter case the sum so recovered from any person shall not be greater than the value of any property in his possession."

**16**. In sub-section (1) of section 4 of the Madras Impartible Estates Act, 1904, the following words shall be deleted, namely :—

" beyond his own lifetime."

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STATEMENT OF OBJECTS AND REASONS.

*Clauses* 2 *and* 16.—It is part of the accepted policy of Government to protect from disintegration and to preserve as far as possible the ancient zamindaris in the Presidency. With this object it is proposed to insert in the Madras Court of Wards Act, 1902, a provision enabling the Government to take under management the estate of any zamindar who is found to be pursuing a course of reckless extravagance. It is also proposed to amend the Madras Impartible Estates Act, 1904, by making it impossible for the proprietor of an impartible estate to alienate his estate or a part thereof or bind it by his debts even during his lifetime.

The opportunity has been taken to make provision in the Court of Wards Act, 1902, for the Court of Wards to exercise certain necessary powers and to carry out certain other amendments of minor importance, as explained below :—

*Clause* 3 *of the Bill* enables the Court of Wards, with the sanction of Government, to take charge of the person or property, or both, of any minor or disqualified member of a disqualified proprietor's family, who has a vested or contingent interest in or a chance of succeeding to the property of such proprietor.

*Clause* 4 provides for the Court of Wards being guided by the provisions of section 17 of the Guardians and Wards Act, 1890, in appointing guardians for its wards.

*Clause* 5 provides an express remedy in the event of a ward who has been placed under a guardian disobeying the guardian's instructions as to his residence or movements and leaving, or being removed by others from, the custody of his guardian.

*Clause* 6 brings Court of Wards' servants within the meaning of the term 'public servants' for the purposes of the Indian Penal Code.

*Clause* 7 enables the Court of Wards to grant advances from estate funds to co-operative societies formed for the betterment of the social and economic conditions of the ward's tenantry.

*Clause* 8 is intended to enable the delegation to Collectors of the power of passing final orders on claims within prescribed limits.

*Clause* 9 is intended to dispense with the sanction of the Government of India for the publication of notifications transferring civil court decrees against estates under the management of the Court of Wards to District Collectors for execution and for the rescission of such notifications.

*Clauses* 10 *to* 12 are intended to relieve the Court of Wards and its official agents from liability to be made parties to suits relating to religious institutions as the guardians *ad litem* of wards and to enable it to meet out of trust funds the costs of suits relating to trust institutions.

*Clause* 13.—It is sometimes necessary to take over an encumbered estate as a matter of urgency in order to prevent its being broken up in consequence of the execution of decrees and it is not possible before taking control to make certain that there is any hope of extricating the estate from its encumbrances. The intention of the existing section is to give a period of two years for inquiry before the taking under management is confirmed. The provision has not been found workable in practice, because in cases of large estates, the management of which is complicated, or cases in which debts are concealed, it is sometimes found after the period of two years has expired that there is no real hope of extricating the estate. In such cases the Court is committed to a long period of management from which no good can result. It is, therefore, proposed to adopt the practice in force in all other provinces of allowing the Government power to release the Court from management where it is found even after the expiry of the two years' period that it cannot be continued profitably to the estate.

*Clause* 14.—The addition appears to be necessary in order to provide for the intervening period between the death of one proprietor or cessation of guardianship and the decision as to whether management is to continue. No practical difficulties have arisen, but it seems desirable to legalize the acts of the Court during such a period.

*Clause* 15.—The Court of Wards may for the first time have to incur expense on account of property under its charge after the release of the property and it is necessary to provide for such cases which are not clearly covered by section 60. Provision is also made for the recovery of charges incurred on account of a ward either before or after the release of his person from the Court's superintendence.

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